



State of New Mexico

Michelle Lujan Grisham
Governor

DIRECTIVE

Date: July 3, 2020
From: The Office of the Governor
To: Relevant personnel at the Department of Public Safety (“DPS”), the Department of Health (“DOH”), the Environment Department (“ED”), and local law enforcement agencies
Re: Ensuring compliance with Public Health Orders over the Fourth of July weekend

Enforcement of mask/face covering requirements by state and local law enforcement

The New Mexico Department of Health’s June 30, 2020 Public Health Emergency Order (“June 30 PHEO”) requires all individuals to wear a mask or cloth face covering in public settings except when eating, drinking, or exercising, or unless a healthcare provider instructs otherwise. June 30 PHEO at p. 8. The June 30 PHEO is a proper exercise of the Secretary of Health’s authority under both the Public Health Emergency Response Act (“PHERA”) and the Public Health Act (“PHA”). Violations of the PHEO can be punished as violations of either or both of those laws. We are instructing state and local law enforcement authorities to enforce the mask/face covering requirements of the June 30 PHEO as violations of the PHA under NMSA 1978, Section 24-1-21.

Clear and willful violations of mask/face covering requirements should be cited as violations of the PHA under Section 24-1-21. That provision makes such violations a petty misdemeanor punishable by a fine not to exceed one hundred dollars (\$100) or imprisonment in the county jail for a definite term not to exceed six months, or both a fine and imprisonment in the discretion of the sentencing court. These citations can be issued by state and local law enforcement agencies.

In accordance with Section 12-10-10, all state and local law enforcement agencies which enforce the mask/face covering requirement of the June 30 PHEO are directed to enforce the requirement under following enforcement criteria:

- A citation should only be issued to a person who is intentionally disregarding face covering requirements. This includes individuals who know that their refusal to wear a mask/face covering violates the law and have purposefully chosen not to comply, it does not include individuals who are inadvertently out of compliance with requirements.
- Law enforcement should enforce mask/face covering requirements in outdoor public areas, including but not limited to public parks, streets, sidewalks, lines for entry, exit or service, and recreation areas, only when a distance of at least six feet cannot be maintained from any non-household members.

- Law enforcement should also respond to any reports of an individual who is refusing to wear a face covering inside of a building that is open to the public, including any business.
- Law enforcement should enforce the requirement in healthcare settings, including but not limited to, a hospital, pharmacy, medical clinic, laboratory, physician's or dentist's office, veterinary clinic, or blood bank.
- Law enforcement should also ensure that the requirement is being following by individuals in line waiting for or riding on public transportation or paratransit, or while riding in a taxi, private car service, ride-sharing vehicle, or other for-hire vehicle.

Targeted enforcement of requirements on businesses by certain state agencies

DPS, DOH, and ED will coordinate on compliance checks at businesses in various parts of New Mexico throughout the weekend. These checks will ensure that businesses are complying with requirements under the June 30 PHEO. The agencies conducting these checks are authorized to exercise their discretion to issue citations against businesses for violating the PHERA under NMSA 1978, Section 12-10A-19(A). Section 12-10A-19(A) authorizes civil administrative penalties of up to five thousand dollars (\$5,000) for each violation.